

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3488

IN THE MATTER OF:

Served April 17, 1990

Application of JEWISH COUNCIL FOR)
THE AGING OF GREATER WASHINGTON,)
INC., for a Certificate Authorizing)
Charter and Special Operations)

Case No. AP-89-54

By application filed December 13, 1989, Jewish Council for the Aging of Greater Washington, Inc. (JCA or applicant), a nonprofit Maryland corporation, seeks a certificate of public convenience and necessity to transport passengers in charter and special operations between points in the Metropolitan District, except transportation solely within the Commonwealth of Virginia, restricted to transportation in vehicles with a manufacturer's designed seating capacity of 30 persons or less.

Pursuant to Order No. 3445, served January 2, 1990, a public hearing was held on February 6, 1990. Two witnesses appeared on behalf of applicant, and five public witnesses testified in support of the application. The matter is uncontested.

SUMMARY OF EVIDENCE

JCA's executive director, Ms. Ruth Breslow-Young, testified concerning applicant's overall operations. JCA provides a variety of services designed to help the elderly maintain independence. JCA currently holds WMATC Certificate No. 159 which authorizes transportation of passengers in charter operations between points in Montgomery County, MD, pursuant to contract with K-2 Limited Partnership (K-2). During the course of its hearing to obtain permanent authority to perform those operations, JCA discovered that it required additional authority to meet the demands of the elderly that it serves and subsequently filed this application.

Applicant's proposed tariff lists charter rates of \$20 an hour with a two-hour minimum. JCA's special operations would be offered for a variety of programs. "Lunch Program Transportation" entails service between points in Washington, DC, and Montgomery and Prince George's Counties, MD, to or from senior citizen lunch programs. Service under two miles would be 50¢ each one-way trip; service over two miles would be 75¢ each one-way trip. "Adult Day Care Transportation" consists of service between points in Washington, DC, and Montgomery County, MD, on the one hand, and, on the other, JCA facilities located in Rockville, MD. Six dollars (\$6) a round trip would be charged. "Shopping Service" involves transportation from residences in Washington, DC, Northern Virginia, and Montgomery County, MD, to shopping facilities in Montgomery County, MD, and Washington, DC, and return. The charge for

transportation between residences and shopping facilities, where that transportation is performed wholly within the District of Columbia, would be 50¢ each one-way trip. Service between residences in the District of Columbia and shopping facilities in Montgomery County, MD, would be 75¢ each one-way trip. Service between residences in Montgomery County, MD, and shopping facilities in Montgomery County, MD, would be 50¢ each one-way trip. The charge for transportation between residences in Virginia and shopping facilities in Montgomery County, MD, would be 75¢ each one-way trip. "Transportation to Medical Appointments" is a service for travel to or from medical appointments. Vehicles equipped for transportation of persons confined to wheelchairs would be available. Ms. Breslow-Young testified that while a tariff would be in effect, individuals would not be required to pay if they are economically unable to do so. The charge for transportation between points in Montgomery County, MD, and the District of Columbia would be \$5 each one-way trip.

JCA's target population consists of senior citizens who generally are too frail to use typical public transportation. The proposed service would transport seniors to programs providing them with recreation, social interaction, and proper nutrition. There is the possibility that new programs may be instituted. JCA, therefore, seeks authority to serve all points within the Metropolitan District in order to meet both existing and future needs.

Applicant's balance sheet dated June 30, 1989, shows \$663,197.03 in assets including \$21,229.25 in cash, \$328,383.60 in liabilities, and \$334,813.43 in "fund balances." JCA anticipates that expenses generated by the proposed operations will outweigh revenues. However, JCA receives significant funding from a variety of outside sources including the United Way and the United Jewish Appeal Federation. In addition, profits generated from JCA's K-2 contract would help finance the proposed operations.

JCA, through Ms. Breslow-Young, is familiar with the Compact and the Commission's rules and regulations, including its safety regulations, and intends to comply with them.

Mr. Galil Mordachai, JCA's director of transportation, would be responsible for overseeing applicant's day-to-day transportation operations. He supervises the activities of an assistant director of transportation and 11 drivers. Experienced drivers with CPR training and defensive driving skills would operate applicant's vehicles. Twelve vehicles, each having a two-way radio communication system, will be used in the proposed service; several of the vehicles are wheelchair-equipped. The same vehicles dedicated for service under applicant's existing WMATC authority would be used to perform the proposed operations. However, no conflict of use exists because service under the K-2 contract is required during early morning and evening "rush hours," whereas the proposed service would be performed "off-rush-hour." Minor maintenance would be performed by JCA staff, while preventive maintenance and repairs would be handled by outside mechanics. JCA's vehicles would be thoroughly inspected and serviced every 3,000 miles. Drivers also would inspect the vehicles daily.

Ms. Naomi Horowitz testified in support of the application for charter and special operations on behalf of the Jewish Community Center (JCC) located in Montgomery County, MD. Ms. Horowitz is outreach director of JCC's Older Adults Division. JCC is a private nonprofit organization that aspires to keep older individuals independent and out of nursing homes. JCC runs five different recreational, nutritional, and social programs requiring transportation service. JCC also administers a program that serves older, visually-impaired individuals. Program participants are generally frail and require door-to-door transportation five days a week. They reside in Prince George's and Montgomery Counties, MD, and require transportation to program sites also located in Prince George's and Montgomery Counties. Program participants would be required to make their own reservations. JCC staff, however, would inform participants about the shopping and other services made available through applicant. Approximately two hundred of these persons a week require the special operations transportation proposed by applicant. Charter service would be required every other month between points in Prince George's and Montgomery Counties, MD, and the District of Columbia. The reduced cost of applicant's service is viewed as a particular benefit to JCC because the nonprofit entity cannot afford to use commercial concerns to meet its transportation needs. The witness would use the proposed services if WMATC authority were granted.

Ms. Bobbee Kolb, activities director at the Bethesda Retirement Center in Montgomery County, MD, testified on its behalf in support of the proposed charter services. The center serves as a nursing home for 166 ambulatory and nonambulatory residents. Once a month Ms. Kolb arranges charter movements to restaurants, shopping facilities, and theaters in Montgomery County, MD, and Washington, DC. Occasionally, transportation is required to points in Prince George's County, MD. Ms. Kolb would use applicant's service if the authority sought in this application were granted.

Ms. Sally White testified on behalf of IONA House, located in Washington, DC, in support of the application as it relates to both charter and special operations. IONA House administers adult day care, nutrition, and recreation programs. The witness is project director of IONA House and oversees IONA House programs that are funded by the Office on Aging. The average age of program participants is 83; the population is generally frail and requires door-to-door transportation service. Special operations service would be required five days a week between points in the Metropolitan District. Approximately 160 people would use the per capita service on a weekly basis. IONA House also would require JCA's proposed charter services for recreational outings to points in Montgomery County, MD, and Washington, DC. The nominal cost of the proposed service is important to IONA House as its program participants are economically unable to use more expensive carriers. IONA House publishes a resource book that would advertise the availability of JCA's transportation to shopping facilities and medical appointments; individuals would be required to make their own reservations.

Ms. Connie Connole is the director of the Jewish Senior Day Program. The Jewish Senior Day Program is sponsored by the Jewish Council for the Aging and the Hebrew House of Greater Washington. Located in Montgomery County, MD, the Jewish Senior Day Program is an adult day care program that provides nutrition, health, and psychological assistance to individuals who are physically handicapped and/or suffer from Alzheimer's disease and related disorders. Door-to-door transportation between the residences of program participants in Montgomery County, MD, Prince George's County, MD, and Washington, DC, and the program site in Montgomery County, MD, is required in vehicles equipped for nonambulatory passengers. Transportation to medical appointments also is needed. Approximately 30 individuals would use JCA's per capita services weekly. Charter moves are required once or twice a month to points in Washington, DC, and Montgomery and Prince George's Counties, MD. The witness is not aware of comparable services at comparable prices from commercial carriers. The witness would use applicant's service if this application were granted.

The final witness to testify in support of JCA's application was Ms. Evelyn Faile, director of JCC's Internal Light Program for visually handicapped senior citizens. Internal Light administers programs at five sites: four located in Montgomery County, MD, and one in Washington, DC. Three of the four programs in Montgomery County require special operations service ten times a month to points throughout the Metropolitan District. The remaining two programs would use the proposed charter services approximately twice a month to various points throughout the Metropolitan District. Groups are generally small due to the special problems encountered with older, visually-impaired persons. Eight individuals from the Washington, DC, site would require the proposed transportation with approximately 50 persons served at the Montgomery County locations.

DISCUSSION AND CONCLUSIONS

This matter is governed by Title II, Article XII, Section 4(b) of the Compact which requires that an applicant for a certificate of public convenience and necessity prove that it is fit, willing, and able to perform the proposed transportation properly and to conform to the provisions of the Compact and the Commission's rules, regulations, and requirements thereunder. Section 4(b) further requires that the applicant prove the proposed service is required by the public convenience and necessity. After reviewing the entire record in this case, the Commission finds that JCA has met its statutory burden. Accordingly, the application shall be granted.

JCA is a nonprofit organization that sponsors numerous programs to improve the quality of life for senior citizens. JCA aspires to provide transportation to medical, nutritional, and recreational programs. In addition to having experience working with senior citizens, JCA also has experience in providing passenger transportation for hire. As a nonprofit entity, JCA admits that proposed expenses

exceed proposed revenues. However, private funding sources should generate sufficient revenue to offset losses. JCA hopes to defray some of its expenses by monies generated by its ongoing WMATC operations which are profit-making. JCA is familiar with the Compact and the Commission's rules and regulations, including those relating to safety, and will comply with them.

The Commission has relied on the criteria set forth in Pan-American Bus Lines Operation, 1 MCC 190, 203 (1936) and its progeny to determine whether an applicant has satisfied its burden of proof that the public convenience and necessity require the proposed service. The witnesses testified to a need for transportation between points in the Metropolitan District, economical in price and capable of providing door-to-door service to a generally frail population. The witnesses also highlighted the fact that adequate and affordable transportation service is essential to the very existence of the programs that they represent.

Based upon the testimony of the witnesses, the application filed by JCA and the documentary evidence submitted in this matter, we find that applicant has proved that the proposed service will serve a useful public purpose for which there is a demonstrated need. No protests were filed in this matter, and the Commission finds that the proposed service will not endanger or impair the operations of existing carriers.

THEREFORE, IT IS ORDERED:

1. That Jewish Council for the Aging of Greater Washington, Inc., is hereby conditionally granted, contingent upon timely compliance with the terms of this order, authority to transport passengers in charter and special operations between points in the Metropolitan District, restricted to transportation in vehicles with a manufacturer's designed seating capacity of 30 passengers or less (including the driver) and further restricted against transportation solely within the Commonwealth of Virginia.

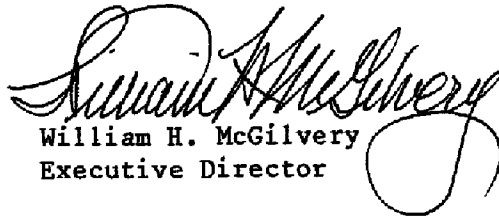
2. That Jewish Council for the Aging of Greater Washington, Inc., is hereby directed to file with the Commission within 30 days of the service date of this order the following: (a) three copies of its WMATC Tariff No. 2; (b) an equipment list specifying make, model, year, serial number, vehicle number, seating capacity, and license plate number (with jurisdiction) for each vehicle to be used in revenue operations; (c) evidence of ownership or lease, as appropriate, in conformance with Commission Regulation No. 69, for each vehicle to be used in revenue operations; and (d) an affidavit of identification of vehicles pursuant to Commission Regulation No. 67, for which purpose WMATC No. 159 has been assigned.

3. That unless Jewish Council for the Aging of Greater Washington, Inc., complies with the requirements of the preceding paragraph within 30 days of the service date of this order, or such

additional time as the Commission may direct or allow, the grant of authority contained herein shall be void, and the application shall stand denied in its entirety effective upon the expiration of the said compliance time.

4. That upon compliance with the conditions set forth in the preceding paragraphs, a certificate of public convenience and necessity will be issued to Jewish Council for the Aging of Greater Washington, Inc., in the form and as worded in the Appendix to this order.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS WORTHY, SCHIFTER, AND SHANNON:


William H. McGilvery
Executive Director

NO. 159

JEWISH COUNCIL FOR THE AGING OF GREATER WASHINGTON, INC.

By Order Nos. 3441 and 3488 of the Washington Metropolitan Area Transit Commission issued December 11, 1989, and April 17, 1990.

AFTER DUE INVESTIGATION, it appearing that the above-named carrier is entitled to receive authority from this Commission to engage in the transportation of passengers within the Washington Metropolitan Area Transit District as a carrier, for the reasons and subject to the limitations set forth in Order Nos. 3441 and 3488;

THEREFORE, IT IS ORDERED that the said carrier is hereby granted this certificate of public convenience and necessity as evidence of the authority of the holder thereof to engage in transportation as a carrier by motor vehicle; subject, however, to such terms, conditions, and limitations as are now, or may hereafter be, attached to the exercise of the privilege herein granted to the said carrier.

IT IS FURTHER ORDERED that the transportation service to be performed by the said carrier shall be as specified below:

IRREGULAR ROUTES:

CHARTER OPERATIONS transporting persons between points in the Metropolitan District.

SPECIAL OPERATIONS transporting persons between points in the Metropolitan District.

RESTRICTED in both charter and special operations to transportation in vehicles with a manufacturer's designed seating capacity of 30 persons or less (including the driver) and further restricted in both charter and special operations against transportation solely within the Commonwealth of Virginia.

AND IT IS FURTHER ORDERED and made a condition of this certificate that the holder thereof shall render reasonable, continuous, and adequate service to the public in pursuance of the authority granted herein, and that failure to do so shall constitute sufficient grounds for suspension, change, or revocation of the certificate.